

## **Remarks**

### **1. Summary of Office Action**

The claims have been rejected under 35 U.S.C. §101.

The claims were rejected under 35 U.S.C. §112, second paragraph, for reciting both “loan customer” and “loan consumer.”

Claims 1 and 11-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nafousi (U.S. 2004/0128262 “Nafousi”), in view of Official Notice.

Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nafousi in view of Official Notice, and Lent (U.S. 6,324,524) and Official Notice.

Claims 4-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nafousi in view of Official Notice, and Lent (U.S. 6,324,524).

Finally, Claims 1-12 were rejected on the ground of nonstatutory obviousness-type double patent as being unpatentable of copending Application No. 11/648,514. This is a provisional rejection.

### **2. Status of Application**

The pending claims 1-6, 11 and 12 of the application have been rejected.

### **3. Response to Rejection of the Claims**

a) The claims have been rejected under 35 U.S.C. §101. The claims have been amended to overcome this rejection. As the claims now stand, they meet the “machine or transformation” test. This rejection should be withdrawn.

b) The claims were rejected under 35 U.S.C. §112, second paragraph, for reciting both “loan customer” and “loan consumer.” The antecedent basis rejection under § 112 has been overcome by amending the claims to recite only a “loan consumer.” This rejection should be withdrawn.

c) Claims 1 and 11-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nafousi (U.S. 2004/0128262 “Nafousi”), in view of Official Notice. The invention is directed to a system and method wherein applications are accepted for four different loan types all orientated towards Direct to Consumer Lending; 1) purchase of new and used vehicles purchased at franchised dealerships, 2) refinancing existing vehicles, 3) private party purchases, and 4) lease buy out purchases. Each application is

unique to its loan type and has an individual as well as joint applicant version. All applications contain fields for personal information as well as vehicle information (year, make, model, miles, vin, etc...). Regardless of application type, all applications are completed by the consumer and this is not an insignificant difference.

In contrast, Nafousi is for the purchase of a new or used vehicle and designed as an Indirect Lending (dealer/lender) model. In Nafousi, the dealer completes the application and submissions. Referring to Figure 2, Nafousi teaches that customers have no interaction with the Nafousi system; the dealer is the intermediary/broker. Once Nafousi has an application in its system, it goes to its BDQ engine where the system looks at various Indirect Lending deal structure tables to determine if the application should proceed. This is usually a “does the customers intended vehicle purchase and requested terms fit in to a deal structure that the dealer can make money via interest rate markup with its Lenders.” Nafousi *does not pull credit data*, and therefore, Nafousi does not calculate similar outcomes. So the first thing Nafousi does is look for deal structure where the inventive system looks to see if the customer application information merits a credit report.

With respect to the “Credit Report” cited by the Examiner, in ¶22, Nafousi teaches avoiding an external credit check. It must be noted that the Nafousi system is as set up in the U.K. and, thus, is different than that of the U.S. While ¶70 does discuss obtaining additional information from a third party such as a credit bureau, the information consists of Hire Purchase Insurance and National Mileage Register data for generating certain charges payable to participants for transactions made through the Nafousi system. Apparently, from ¶70, a customer’s credit rating is assessed from data acquired from information from the customer, and not a “credit bureau” as would occur in the U.S. In addition ¶71 teaches that the Lender may perform a credit check after it receives a proposal, but not the Nafousi system. This is significantly different than the claimed invention.

With respect to filtering, it appears that Nafousi has a filtering step that filters out Lenders. This is very different from the claimed filtering step, wherein customers are filtered to determine if the customer meets predefined criteria.

Once the Nafousi dealer determines that there is a deal structure match, the Nafousi system passes the application data up against its Lender Pricing Module within the BQD Engine to see if Lenders participating in its system want to see the application for a decision. The participating Lenders access the module, Front End Data Capture module (see Figure 2, 42) and enter their own filter requirements. Since there is no credit pull, Nafousi only looks at the application field data and deal structure data.

In the present system, once the present system has identified all the Lenders that passed the initial filter criteria, the system selects up to four Lenders that are best matched to the customer's credit profile and returns the highest ranking Lenders in order of highest probability of success.

When the Lenders in the present system have been ranked, the system electronically, sequentially delivers the application via xml to the first best match source, and waits for a decision. When the Lender decisions the application, that decision is electronically submitted to the system by the lender via the system interface. A web page is posted with decision details for the customer to review, and the system emails the customer as well. The system then moves to the second best matched source and repeats these steps until all identified Lenders (up to 4) have made decisions. All approved loan offers are posted online so the customer can review and select the loan offer that makes the most sense to them.

This is nothing like Nafousi. Once Nafousi's system determines that applicants deal structure can make the dealer money and that the Lenders specified application attributes might meet several Lenders requirements the dealer can have the application transmitted to the Lender(s). The Nafousi system rank orders the Lenders top to bottom based on the interest rates and potential profitability for the dealer. Once the dealer has an approved Lender decision in hand the process stops and the dealer presents the loan to the customer to see if the customer accepts the loan.

As shown above, there are many deficiencies in Nafousi and there are substantial differences between the claimed invention and the Nafousi model. For at least these reasons, there is no *prima facie* case of obviousness, and moreover there is no reasoning given with factual underpinnings that would motivate one with ordinary skill in the art to

modify Nafousi to arrive at the claimed invention. Therefore, the rejection under §103(a) is traversed.

d) Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nafousi in view of Official Notice, and Lent (U.S. 6,324,524) and Official Notice. Lent is cited to supply deficiencies of Nafousi related to validating application information and detecting errors and transmitting error messages. However, Lent (and Official Notice) do not supply the deficiencies of Nafousi set out above. Therefore, the rejection under §103(a) is traversed.

e) Claims 4-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nafousi in view of Official Notice, and Lent (U.S. 6,324,524). Lent is cited to supply deficiencies of Nafousi related to reapplying for credit after a time period. However, Lent (and Official Notice) do not supply the deficiencies of Nafousi set out above. Therefore, the rejection under §103(a) is traversed.

f) Claims 1-12 were provisionally rejected as being unpatentable over the pending claims of U.S. Application No. 11/648,514. When claims are allowed, this rejection will be addressed.

#### 4. Conclusion

Applicant respectfully requests reconsideration.

Respectfully submitted,

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